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08/809, 630	06/27/97	KALMANN	16058-61

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EXAMINER	
ISABELLA, D	
ART UNIT	PAPER NUMBER
3738	9
DATE MAILED:	04/22/98

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

<b>Office Action Summary</b>	Application No. <b>08/809,630</b>	Applicant(s) <b>KALMANN ET AL</b>
	Examiner <b>ISABELLA, DAVID</b>	Group Art Unit <b>3738</b>

Responsive to communication(s) filed on Jan 5, 1998

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 14-34 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 14-34 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lentz in view of Lau, et al.

Lentz discloses a tubular prosthesis with cuffs formed at each end thereof. The cuffs form a pocket for receipt of the expandable stents. Lau, et al teaches a method for deploying a stent against a flap formed in the inner layer of the blood vessel. To use the method for deploying the tubular stent of Lentz in the area of the flap would have been obvious to one with ordinary skill in the art based on surgical considerations.

Claim 15, see column 3, lines 10+ of Lentz.

Claim 16, to replace the surface area removed would have been obvious to one with ordinary skill in the art since the natural vessel requires a new layer that replaces the removed portion of the vessel.

Claim 17, see column 3, lines 40+ of Lentz.

Claim 18, see column 3, lines 40+ of Lentz.

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Claim 19, the inner layer of Lentz must be fluid tight in order to function in the vascular system.

Claim 20, see catheter of Lau, et al

Claim 21, see guide wire and sheath of Lau, et al.

Claims 22,24,26,27,28,31,32,33 see balloon 14 of Lau, et al.

Claim 29, see graft of Lentz.

3. Claims 22,23,25,26,27,28,31,32,33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lentz and Lau, et al as applied to claim 14 above, and further in view of either of Garza et al or Rosenbluth (EP).

To replace the balloon of Lau, et al with radial expandable member 33 of Rosenbluth or Garza,et al would have been obvious to one with ordinary skill in the art based on equivalent elements.

4. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lentz in view of Rosenbluth as applied supra.

5. Applicant's arguments with respect to claims 14-34 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has submitted new claims directed to subject matter not previously considered and required rejections to the claims based on new art combination.

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is (703) 308-3060. The Examiner's Supervisor, Mickey Yu, may be reached at (703) 308-2672. The group receptionist may be reached at (703) 308-0858.

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Should Applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should Applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.

The Office is currently undergoing a reorganization. Beginning April 1, 1998, Applicant should address all correspondence in this application to Art Unit 3738 to expedite matching of incoming papers with the application.



**DAVID J ISABELLA**

**PRIMARY EXAMINER**

**GROUP 3300**

dji

April 16, 1998